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No. 04-180

In The
Supreme Court of the United States

GEORGE E. BURLESON,
Petitioner,

v.

HANCOCK COUNTY SHERIFF'S DEPARTMENT CIVIL SERVICE COMMISSION; HANCOCK COUNTY SHERIFF STEVE GARBER AND FORMER HANCOCK COUNTY SHERIFF RONALD PETERSON,
Respondents.

ON PETITION FOR WRIT OF CERTIORARI
TO THE COURT OF APPEALS
FOR THE STATE OF MISSISSIPPI

MOTION FOR LEAVE TO FILE BRIEF OF AMICI CURIAE NORTH CAROLINA AND SOUTHERN STATES POLICE BENEVOLENT ASSOCIATIONS IN SUPPORT OF PETITIONER

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October Term 2003

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HANCOCK COUNTY SHERIFF'S DEPARTMENT
CIVIL SERVICE COMMISSION;
HANCOCK COUNTY SHERIFF STEVE GARBER
AND FORMER HANCOCK COUNTY SHERIFF
RONALD PETERSON,

Respondents.

On Petition For Writ of Certiorari To The
Court of Appeals For The State of Mississippi

MOTION OF NORTH CAROLINA AND SOUTHERN STATES POLICE BENEVOLENT ASSOCIATIONS TO FILE A BRIEF AS *AMICI CURIAE* IN SUPPORT OF PETITIONER.

Pursuant to Rule 37 of this Court, Amicus Curiae North Carolina and Southern States Police Benevolent Associations (hereinafter PBA or Amici) hereby move this Court for leave to file the accompanying brief in

support of the petition for writ of certiorari filed by Petitioner Burleson.

The Petitioner has consented to the filing of the accompanying brief by Amici; counsel for the Hearing Office has no position but advised that there was no objection. However, Respondent Hancock County Sheriff's Department does not consent for amici to appear therefore necessitating this motion.

INTEREST OF THE AMICI

The North Carolina and Southern States Police Benevolent Associations are non-profit voluntary associations of law enforcement officers. Amici promote and protect the interests of their members and the law enforcement profession through legislative advocacy, publishing, scientific studies, grass roots advocacy and litigation.

Amici and the law enforcement profession are vitally concerned with a dangerous developing trend of fundamental denials of procedural due process for law enforcement officers. The law enforcement profession is the most abused and violated class of public employees in America. Employment relations within the law enforcement profession present issues of national import, especially with the current strained budgets, homeland security burdens and continual assaults on the law enforcement profession from multiple sources. Rank and file officers regularly suffer the most devastating

deprivations of basic constitutional and civil rights.[1] Police officers with protected property interests critically need fundamental procedural due process because, *inter alia*, it is critically necessary to protect their jobs, careers and lives.

Many law enforcement officers like Officer Burleson are often completely denied due process. Others are often afforded only a watered down meaningless cosmetic version with inadequate procedures. Clarity of the law by this Court will reduce this uncertainty and promote more efficient delivery of police services.

This Court should grant certiorari to correct the palpable conflict created by the Mississippi Court below and instruct the lower courts and police agencies regarding what process is due including whether and the extent that confrontation and cross examination of adverse witnesses is constitutionally mandated in post deprivation hearings where there are disputed issues of fact or debatable issues of just cause for discipline.

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[1] See e.g., Kirby v. Elizabeth City, __ F.3d __ , 2004 WL 1874412 (2004); N.C. Depart. of Environment and Natural Resources v. Clifton Carroll, (2004 WL 1801774, N.C. Sup. Ct., August 13, 2004); Edwards v. City of Goldsboro, 178 F.3d 231 (4th Cir. 1999).

The due process denial below is especially egregious and Officer Burleson was clearly denied what this Court required in Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532, 542 (1985). There, this Court held that the Due Process Clause entitles a protected employee to a minimal form of process "*before* he [or she] is deprived of any significant property interest..." (emphasis added).

The case *sub judice* is representative of a trend of misconduct against the law enforcement profession whereby police officers are either completely denied due process or are consistently afforded substantially less due process than everyone else, even including declared enemy combatants. Hamdi v. Rumsfield, 124 S.Ct. 2633, 2648 (2004)(relying upon the Loudermill standard).

The decision below by the Mississippi Court of Appeals, if allowed to stand, will adversely affect Amici and the constitutional rights of law enforcement officers throughout America.

Amici have successfully litigated other law enforcement employment cases and have appeared as amicus curiae in constitutional litigation involving the due process rights of law enforcement officers. SSPBA has appeared as amicus curiae on several occasions before this Court, and before other federal appellate and state supreme courts.

Many of America's public sector employees make life better for the rest of us. Law enforcement officers, school teachers, firefighters, public health workers, emergency response personnel, social workers, corrections officers, and countless others who administer

the day-to-day delivery of governmental services need effective procedural due process in order for governmental administration to efficiently function.

The accompanying amicus brief highlights some of the dangers associated with the Mississippi decision below. While the petition for certiorari raises several compelling issues, the brief of Amici seeks to clarify points not already brought to this Court's attention and will offer additional authorities further demonstrating the need for granting the writ.

Wherefore, Amici respectfully move the Court for leave to file the accompanying amicus brief.

Respectfully submitted,

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QUESTIONS PRESENTED

1. Whether the Fourteenth Amendment's Due Process Clause requires that a law enforcement officer with a protected property interest in employment be afforded minimum procedural due process protections *before* imposing a termination of employment?

2. Whether the Due Process Clause provides that a law enforcement officer with a protected property interest is entitled to confront and cross examine adverse witnesses in a post-termination hearing to contest the officer's termination of employment where there are disputed issues of fact or debatable issues regarding whether there is just cause for discipline?

3. Whether a Mississippi civil service regulation may authorize deprivations of employment entitlements that are otherwise unconstitutional under the Due Process Clause?

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I. INTEREST OF THE AMICI

The North Carolina and Southern States Police Benevolent Associations (hereafter PBA) are non-profit associations with over twenty thousand law enforcement officers and related public employees in an eleven state southern region. Amici engage in various types of advocacy, lobbying, litigation and scientific analyses of various law enforcement issues. Amici promote improved law enforcement and constitutional protection for everyone.

Amici are vitally interested in the grave constitutional issues before this Court because the decision below, *inter alia*, is palpably inconsistent fundamental constitutional protection for law enforcement officers. Law enforcement officers are frequently victims of constitutional torts, often in the employment context like the case *sub judice*.

The Mississippi legislature saw the need to protect police officers from the corruption of arbitrary discipline without just cause. However, unless courts honor and enforce the federal constitutional mandates enunciated by this Court, the legislative attempts by Mississippi and other states to provide property interests in police jobs will be futile.

In his petition for certiorari, Officer Burleson demonstrated the "do it" rule whereby Mississippi police agencies often openly disregard and defy federal constitutional mandates. This defiance subverts the rule of law and promotes selective enforcement of our nation's fundamental charter. Amici have encountered the "do it" rule throughout the south for decades. The

"do it" rule breeds employment retaliation, discrimination, corruption and a host of related ills which frustrates the dangerous mission of front line police officers and impedes the efficient delivery of law enforcement services.

The vast body of growing and unclear case law demonstrates how law enforcement officers are frequently subjected to constitutional deprivations and other workplace injuries that adversely affects the delivery of police services and public safety.[1] There is a compelling need for this Court to grant the writ to clarify the law and guide the lower courts and police employers regarding the specific constitutional mandates in police termination hearings.

II. STATEMENT OF THE CASE AND FACTS

Amici adopt the Statement of the Case and Facts as presented by Petitioner.

III. REASONS FOR GRANTING THE WRIT

A. SUMMARY OF ARGUMENT.

The Mississippi Court below issued a decision palpably inconsistent with settled precedent from this Court. Law enforcement officers who enjoy a property

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[1] See, e.g. Representing Law Enforcement Officers in Personnel Disputes and Employment Litigation, 77 American Jurisprudence Trials 1 (2000); The Rights of Law Enforcement Officers (4th ed. 2000).

interest[2] in their jobs are constitutionally entitled to procedural due process before they are terminated. The minimum process due consists of predeprivation notice and opportunity to be heard before the deprivation coupled with a more complete post-deprivation process including cross examination and confrontation of adverse witnesses.

In Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532, 542 (1985), this Court held that the Due Process Clause entitles a public employee to a hearing "before he [or she] is deprived of any significant property interest..."[3] The Mississippi decision below violates the core of Loudermill, and if followed, would erode fundamental constitutional protections necessary for police officers to survive.

The dissenting opinion of Justice Southwick, joined by Justices McMillin and Griffis, demonstrates some of Petitioner's concerns. The dissent shows how the majority decision below failed to apply this Court's precedent in Loudermill.

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[2] Petitioner enjoyed a property interest in his job as per the just cause provision in Mississippi Code Sections 21-13-21 and 21-13-23. The Mississippi Court found that Petitioner enjoyed a property interest. See decision at paragraph 17, at page 8 in the Appendix.

[3] See Procedural Due Process Rights of Public Employees: Basic Rules and A Proposal for Return to Rule Oriented Process, 33 New England L. Rev. 929 (1999).

Certiorari should be granted to resolve the conflict between the Mississippi Court below and settled precedent from this Court on the point that minimum predeprivation process is required. Certiorari should also be granted to resolve conflicting decisions on the point of how much process is due in the second stage of Loudermill due process hearings.

A plethora of similar issues arise every day in law enforcement and other public sector workplaces throughout America. The extent of due-process protection, especially to police officers who are often viewed as targets for complaints and lawsuits, essentially determines the efficiency of police services. Thus, the issues involved are paramount public safety concerns.

Officers need predeprivation procedural protection before terminations because pre-deprivation process often demonstrates the falsity or inaccuracy of allegations against officers and therefore avoids the initial imposition of unjust punishment. Post-deprivation process alone is not adequate because even full awards of backpay cannot repair the permanent damage inflicted upon officers who are permanently stigmatized with a termination. Even if the termination is reversed, agencies retain records of the termination and the officer must disclose even a reversed termination to future prospective employers.

Petitioner was accused of being "an insurance risk," whatever that means. The Mississippi Court observed that "this risk stemmed from two separate lawsuits filed against the Sheriff's Department based upon actions of Burleson." The Court did not observe or find if the alleged lawsuits were meritorious or frivolous.

Serving as a law enforcement officer necessarily puts one at risk of lawsuits because officers have to deal with unwanted "customers" who often seek to obtain leverage. An alleged lawsuit does not mean that any violations of law occurred. Most all of America's law enforcement officers are sued numerous times throughout a law enforcement career. Getting sued goes along with the law enforcement turf.

The allegations against Petitioner raised issues that were fact based and debatable. Consequently, there was a need for witnesses to offer facts about what occurred. Finally, the bottom line of the termination hearing below was to address whether there was *just cause* for Petitioner's discipline. Thus, there were numerous *debatable issues, factual disputes* and reasons to have a traditional due process hearing with meaningful traditional process.

Effective predeprivation procedural due process under the Loudermill standard can be conducted in a matter of minutes. The benefits to officers, agencies and the public far outweigh any conceivable administrative burdens associated with such minimum process. Affording predeprivation due process is simple, without significant burden, but is vitally important in the overall scheme of constitutional protection for law enforcement officers who are subjected to daily risks of death for their public service.

This Court has held that law enforcement officers are not relegated to a "watered down version of constitutional rights." Garrity v. New Jersey, 385 U.S. 493, 500 (1967). To fulfill that time honored principle, this Court must reverse the Mississippi Court below. The

constitutional rights of law enforcement officers "must be afforded great weight." Konraith v. Williquette, 732 F. Supp. 973, 978 (W.D. Wis. 1990).

B. THE ISSUES PRESENTED CONCERNING THE SCOPE OF DUE PROCESS PROTECTIONS FOR POLICE OFFICERS CONSTITUTE QUESTIONS OF EXCEPTIONAL PUBLIC IMPORTANCE; THE MISSISSIPPI COURT OF APPEALS BELOW MISCONSTRUED THE FOURTEENTH AMENDMENT'S DUE PROCESS CLAUSE WHICH HAS RESULTED IN CONFLICTING DECISIONS WHICH JEOPARDIZE THE CAREERS OF PETITIONER BURLESON AND OTHER CAREER POLICE OFFICERS.

The proper functioning of police officers and agencies is a matter of vital public importance throughout the nation.[4] The Mississippi Court below erroneously elevated a local civil service regulation to supersede the Due Process Clause of the Fourteenth Amendment. The pertinent civil service regulation provides in relevant part that "the sheriff may in his discretion provide for a pretermination hearing and examination of witnesses, and if a hearing is to be held,

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[4] See Auriemma v. Rice, 910 F.2d 1449, 1460 (7th Cir. 1990)(en banc)("it would be difficult to find a matter of greater public concern in a large metropolitan area than police protection and public safety"); Glass v. Dachel, 2 F.3d 733, 741 (speech that focuses on police departments and ultimately police protection and public safety involve matters of great public concern.").

the notice to such employee shall also set the time and place of such hearing." However, the Mississippi State Code provides a property interest to Officer Burleson as per Sections 21-13-21 through 21-13-23. The Mississippi Court below interpreted the life out of the Due Process Clause.

C. THE MISSISSIPPI DECISION CONFLICTS WITH THIS COURT'S LOUDERMILL PRINCIPLES INCLUDING THE RIGHT TO PRE-DEPRIVATION PROCESS AND THE EXTENT OF POSTDEPRIVATION PROCESS.

The Mississippi Court cited Loudermill and its requirement that protected public employees must be afforded a pretermination hearing. See paragraph fourteen of the decision of the Mississippi Court of Appeals, which appears in the appendix to the petition for certiorari at 7. However, despite recognizing this fundamental due process principle, the Mississippi Court failed to apply the principle and concluded that there was no due process violation despite the fact that there was no pre-depravation process provided. The logical import of the Mississippi Court's decision is to overrule this Court's precedent in Loudermill, which may lead other state courts to disregard or defy this Court's precedent. States are not free to legislate away constitutional protection.

Procedural due process rights for police officers are particularly important because procedural due process is often the only non-litigation check on an erroneous personnel decision that may ruin the career of

a law enforcement officer. The essence of procedural due process "reflects a fundamental value in our American constitutional system." Boddie v. Connecticut, 401 U.S. 371, 374 (1971).

In Loudermill, this Court held that in the predeprivation stage, "[t]he tenured public employee is entitled to oral or written notice of the charges against him, an explanation of the employer's evidence, and an opportunity to present his side of the story." Loudermill established a two-stage procedure for minimum predeprivation process combined with a full post-termination hearing.

In Gilbert v. Homar, 117 S. Ct. 1807, 1811 (1997), this Court interpreted Loudermill to mean that a public employee with a protected interest was constitutionally entitled to a "very limited hearing prior to his termination, to be followed by a more comprehensive post-termination hearing." Gilbert did not define the terms "very limited" and "more comprehensive."

In Loudermill, this Court determined what predeprivation process must be afforded a public employee in connection with termination:

> We have described the "root requirement" of the Due Process Clause as being "that an individual be given an opportunity for a hearing before he is deprived of any significant property interest".... some opportunity for the employee to present his side of the case is recurringly of obvious value in reaching an accurate decision... Even where the facts are clear, the

> appropriateness or necessity of the discharge may not be; in such cases the only meaningful opportunity to invoke the discretion of the decisionmaker is likely to be before the termination takes effect....The ... employee **is entitled to oral or written notice of the charges against him an explanation of the employer's evidence, and an opportunity to present his side of the story.** (emphasis added).

Loudermill established a two-stage procedure for minimum predeprivation process combined with a full post-deprivation hearing. Garraghty v. Comm. of Va., 52 F.2d 1274, 1283 (4th Cir. 1995). First, a minimum predeprivation process must be provided before any adverse action can be taken. Second, a full post-deprivation hearing must be provided. Id.; Contoir v. University of Maine, 35 F.3d 6, 12-13 (1st Cir. 1994). This recognition of "stages" of due process underscores the importance and fundamental nature of predeprivation process.

This Court has held that absent "extraordinary situations where some valid governmental interest is at stake that justifies postponing the hearing until after the event," the government must provide the hearing before the deprivation takes place. United States v. James Daniel Good Real Property, 510 U.S. 43, 114 S.Ct. 492, 501 (1993).

The Due Process Clause lives to fulfill the thrust of Marbury v. Madison[5] - that "the very essence of civil liberty certainly consists in the right of every individual

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5 5 U.S. (1 Cranch) 137, 163 (1803).

to claim the protection of the laws, whenever he receives an injury." In Loudermill, this Court held that the Due Process Clause entitles an employee to a hearing "before he [or she] is deprived of any significant property interest..." (emphasis added) 470 U.S. at 542. The Mississippi Court below failed to apply these fundamental principles.

D. THE RATIONALE FOR PROCEDURAL DUE PROCESS PROTECTIONS.

The laws governing law enforcement employment relations profoundly affects the efficiency and quality of law enforcement services and the daily lives of officers everywhere. Law enforcement agencies, officers and the public are better served by meaningful predeprivation procedural due process protections for officers. Procedural due process protection safeguards against mistakes and errors which can deprive an officer of his or her career. Similarly, an erroneous decision can deprive the agency of a good officer. With the tremendous cost of properly training new officers, it makes sound economic sense to afford predeprivation due process to officers as many officers will likely be saved from arbitrary and erroneous adverse employment action as in this case.

Predeprivation due process promotes efficiency in the workplace. It promotes employee confidence and positive morale. A positively motivated law enforcement workforce breeds an environment of collegiality, efficiency and esprit de corps. Without predeprivation due process, erroneous decisions go unchecked. Denials of due process frustrate the entire criminal justice system by demoralizing valuable officers and rewarding abusive management officials for their own misconduct.

Complaints against law enforcement officers continue to skyrocket, even for the most trivial feigned allegations.[6] Many of those complaints represent nothing more than angry citizens who have had an unpleasant encounter with an officer, which provoke an internal affairs investigation thus jeopardizing the officer. In many such encounters, law enforcement officers are spit on, harassed, assaulted, battered, stabbed, shot and killed. Over three thousand seven hundred law enforcement officers were murdered from 1945 until 1999, with an average of 66 police murders per year.[7]

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[6] See e.g.,N.C. Depart. of Environment and Natural Resources v. Clifton Carroll, (2004 WL 1801774, N.C. Sup. Ct., August 13, 2004).

[7] U.S. Department of Justice, Federal Bureau of Investigation, cited in Officer Survival Tactics, N.C. Highway Patrol.

As government has grown, so has the power of governmental employers.[8] Americans from all walks of life need constitutional protection from increasingly arbitrary and oppressive government power, more often at the local level.[9] Contemporary law enforcement bureaucracies present vast opportunities for abusive bureaucrats to employ abusive tactics on personal missions of retaliation.[10] The tremendous volume of reported cases adjudicating the rights of law enforcement officers demonstrates the frequency and intensity of harassment of law enforcement officers.[11] As Senator Helms observed:

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8 Millions of individuals are employed by more than eighty two thousand governmental units at local, state, and federal levels. As of 1991, more than 18 million persons were employed by local, state or the federal government. See Waters v. Churchill, 114 S. Ct. 1878, 1899 n. 3 (1994)(Stevens, J. and Blackmun, J., dissenting)(citing the 1991 figures from the U.S. Department of Commerce Statistical Abstract of the United States, Table No. 500, page 318 (113 ed. 1993).

9 See Senator Sam J. Ervin, Jr., Preserving The Constitution 165, 213 - 214 (1984); Boward, Lost Rights: The Destruction of American Liberty 1-6, 49 - 51 (1995); Equal Protection For Non-Suspect Class Victims of Governmental Misconduct: Theory and Proof of Disparate Treatment and Arbitrariness Claims, 18 Campbell L. Rev. 333 (1996).

10 See Board of County Commissioners v. Umbehr, 116 S. Ct. 2342, 2347 (1996)(cataloging cases of government retaliation in different contexts).

11 See Silencing Government Employee Whistleblowers In The Name of "Efficiency", 23 Ohio Northern U. L. Rev. 17 (1996)(cataloging numerous cases demonstrating retaliation against police officers).

> "[T]oo often law enforcement officers lose their jobs for frivolous reasons - or for no reason at all." Senator Jesse Helms, Congressional Record, January 31, 1991.

The critical importance of procedural due process protections has long been emphasized. Many cases have "recognize[ed] and respect[ed] the role that procedural due process has played in preventing arbitrary deprivations of individual liberty and property..."[12] This logic, underscored by such historic decisions from this Court as Loudermill, McGrath and McNabb, demonstrate the importance of the time honored American tradition of procedural due process protection. This case demonstrates the need for this Court to clarify the law on the issues presented in the petition.

This Court has emphasized a flexible procedural due process approach whereby a balancing test is employed on a case-by-case basis to determine what particular process is due in a given situation. Matthews v. Eldridge, 424 U.S. 319 (1976). The precise requirements of procedural due process depend upon the particular circumstances, Morrissey v. Brewer, 408 U.S. 471, 481 (1972), but the essential fundamentals remain constant. In the public employment context, the "essentials" of procedural due process including the minimum predeprivation process and confrontation and cross examination rights in the post-termination hearing. This case raises these two critically important points.

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12 Fields v. Durham, 909 F.2d 94, 99 (4th Cir. 1990).

The flexible approach has lead to confusion in the circuits and in police agencies.[13] However, in the case sub judice, the Mississippi Court denied the core minimum due process: 1) some minimum predeprivation procedural process; 2) followed by a post-termination hearing with the right to confront and cross examine adverse witnesses where there are any factual disputes or debatable issues.

E. PUBLIC EMPLOYEES INCLUDING LAW ENFORCEMENT OFFICERS ARE CONSTITUTIONALLY ENTITLED TO A POST-TERMINATION HEARING ON THE MERITS WITH CONFRONTATION AND CROSS EXAMINATION RIGHTS WHERE FACTS ARE DISPUTED OR ISSUES REGARDING JUST CAUSE FOR DISCIPLINE ARE DEBATABLE.

The Mississippi Court below further erred by allowing the Sheriff and Commission to deny Petitioner Burleson the right to cross examine witnesses based upon the purported civil service regulation. Once a property interest attaches, an employer must comply with constitutional due process. Cross examination is a critically necessary component of procedural due process especially in disputed public employee dismissal cases where facts, circumstances, credibility, and other such considerations are especially relevant.

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[13] E.g. Hudson v. City of Chicago, 374 F.3d 554 (7th Cir. 2004); Mitchell v. Frankhauser, 2004 WL 1562189 (6th Cir. 2004); Morrison v. Warren, 2004 WL 1522361 (6th Cir. 2004).

While the majority opinion in Loudermill did not specifically address whether cross examination is required, the separate opinions of Justices Marshall and Brennan provide additional insight. They would require that employees have an opportunity to confront and cross-examine adverse witnesses where factual disputes are involved. That position is supported by a wealth of cases reaffirming the critical constitutional rights of confrontation and cross examination. See Greene v. McElroy, 360 U.S. 474, 496-97 (1959)(reaffirming history of requiring cross examination and confrontation); Goldberg v. Kelly, 397 U.S. 254, 269-70 (1970); Nevels v. Hanlon, 656 F.2d 372 (8th Cir. 1981); Morris v. City of Danville, 744 F.2d 1041, 1047 (4th Cir. 1984); Thomas v. Ward, 529 F.2d 916, 919 (4th Cir. 1975); McNeill v. Butz, 480 F.2d 314, 321 (4th Cir. 1973). "Ceremonial compliance" with due process is constitutionally inadequate. Ferguson v. Thomas, 430 F.2d 852, 859 (5th Cir. 1970).

In Garraghty v. Comm. of Va., 52 F.3d 1274, 1282-83 (4th Cir. 1995), the Court found that the right to cross examine is necessary in a post-termination hearing but that pretermination confrontation rights are not constitutionally required. That is consistent with this Court's two stage process in Loudermill. This Court should adopt the approach in Garraghty.

Justice Brennan observed in Loudermill that whenever factual disputes are involved, an employee may deserve a pretermination opportunity to present contrary records or testimony, or to confront the accuser in front of the decision maker. Justice Brennan noted that factual disputes were not involved in Loudermill. However, in any event, the termination of Loudermill

involved debatable issues. Loudermill possibly could have framed a persuasive argument against his dismissal if he had been afforded a minimum pretermination opportunity to respond.

While cross-examination of adverse witnesses may not have been imperative in Loudermill, many employment disputes, including the one before the Court, often entail the sort of factual dispute or debatable issues in which cross-examination is absolutely essential.

IV. CONCLUSION

> "The history of liberty has largely been the history of observance of procedural safeguards." McNabb v. U.S., 318 U.S. 332, 347 (1947).
>
> "It is procedure that spells much of the difference between the rule by law and rule by whim or caprice." Joint Anti-Facist Committee v. McGrath, 341 U.S. 123, 179 (1951)(Douglas, J. concurring).

This Court should grant certiorari for the reasons set forth in the petition and in order to provide necessary clarifying guidance for lower courts to resolve disparity over the extent of due process protections available to public employees and law enforcement officers.

Wherefore, Amici respectfully pray that this Court grant the petition to resolve these important issues.

Respectfully Submitted,

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